

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

EA-06 FRB-03 INR-07 IO-10 NEA-10 NSAE-00 OPIC-03

SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01 L-03 /077 W
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R 021907Z JUN 75

FM USMISSION OECD PARIS
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PASS TREASURY FOR SUNLEY

E. O. 11652: N/A
TAGS: EFIN, OECD
SUBJECT: FISCAL AFFAIRS WP ON TAXATION MNE'S

REFS: (A) DAF/CFA/WP6/75.6
(B) DAF/CFA/WP6/75.7
(C) DAF/CFA/WP6/75.4

1. SUMMARY: WORKING PARTY NUMBER 6 OF THE COMMITTEE
ON FISCAL AFFAIRS MET MAY 22, 1975, PRECEDED BY A
MEETING OF ITS SPECIAL WORKING GROUP (WG) ON MAY 20
AND 21 TO DISCUSS TAX QUESTIONS RELATED TO MNE'S.
END SUMMARY.

2. RIGHTS AND SERVICES: WG CONSIDERED QUESTION OF
WHETHER IT IS NECESSARY TO DISTINGUISH BETWEEN RIGHTS
AND SERVICES, AND IF SO, HOW TO DEFINE AND TREAT KNOW-
HOW. IT WAS NOTED THAT U. S. REGULATIONS PROVIDE
DIFFERENT TREATMENT FOR RIGHTS AND SERVICES: KNOW-HOW
IS TREATED AS A RIGHT. WG ALSO CONSIDERED WHETHER IT
NECESSARY TO DISTINGUISH BETWEEN SALES OF INTANGIBLE
PROPERTY AND LICENSING TO USE SUCH PROPERTY. SOME
DELEGATES BELIEVE SALES SHOULD BE TREATED SEPARATELY.
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SUCH DISTINCTION IS NOT NECESSARY UNDER U. S.

REGULATIONS.

3. PRICING: WG DISCUSSION FOCUSED ON FACTORS TO BE
CONSIDERED IN DETERMINING ARMS LENGTH PRICE. DELEGATES
FOUND FACTORS LISTED IN U. S. REGULATIONS QUITE USEFUL.
NO GENERAL AGREEMENT WAS REACHED AS TO RELATIVE
IMPORTANCE OF DIFFERENT FACTORS, EXCEPT THAT COST OF
DEVELOPING PROPERTY PROBABLY LESS IMPORTANT THAN
MOST OTHER FACTORS.

4. COST SHARING: SEVERAL WG DELEGATES BELIEVED THAT
COST SHARING ARRANGEMENTS MAY INVOLVE TAX AVOIDANCE EITHER
THROUGH AVOIDANCE OF WITHHOLDING TAXES (COST SHARING BEING AN
ADVANCE PAYMENT OF ROYALTIES) OR BECAUSE OF DIFFICULTY
IN DETERMINING EXPECTED BENEFITS FOR EACH PARTICIPANT.
WP DECIDED THAT ADDITIONAL INFORMATION WAS NEEDED AND
A QUESTIONNAIRE ON COST SHARING ARRANGEMENTS WAS PRE-
PARED FOR SUBMISSION TO BIAC.

5. TAX HAVENS: WP6 DISCUSSED REF A COMPARING U. S.
AND GERMAN MEASURES TO COMBAT USE OF TAX HAVENS. U. S.
DEL DESCRIBED RECENT AMENDMENTS TO SUBPART F OF U. S.
TAX CODE.

6. STANDARDS OF CONDUCT: ALTHOUGH NOT ON THE ORIGINAL
AGENDA, WP6 CONSIDERED GENERAL QUESTION DRAFT STANDARDS
OF CONDUCT IN FIELD OF TAXATION (NOTED IN LATTER PORTION
REF B). WP6 REMAINED GENERALLY UNENTHUSIASTIC ABOUT
THIS EXERCISE. IF REQUIRED TO CHOOSE, COUNTRY DELS
(EXCEPT U. S. AND NETHERLANDS) FAVORED ALTERNATIVE B
OVER ALTERNATIVE A. FRENCH AND BELGIAN DELS WILL RE-
DRAFT ALTERNATIVE B. SECRETARIAT POINTED OUT THAT THREE
WP6 COUNTRY DELS HAD SUPPORTED OPPOSITE ALTERNATIVE THAN
HAD BEEN SUPPORTED BY THEIR DELS IN COMMITTEE ON INTER-
NATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES.
THIS WOULD SEEM TO INDICATE THAT EXERCISE HAS NOT
REACHED THE POINT WHERE IT IS BEING COORDINATED WITHIN
MEMBER GOVERNMENTS.

7. TREATMENT OF LOANS: REF C ON TREATMENT OF LOANS WAS
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APPROVED FOR SUBMISSION TO FISCAL AFFAIRS COMMITTEE.

8. NEXT MEETING OF WG SCHEDULED FOR OCTOBER 13 AND 14,
1975. PRELIMINARY DRAFT ON TREATMENT OF RIGHTS WILL BE
CONSIDERED, AS WELL AS BIAC RESPONSE TO QUESTIONNAIRE ON
COST SHARING ARRANGEMENTS (IF AVAILABLE BY MEETING TIME).
MEETING WILL ALSO FOCUS ON TREATMENT OF SERVICES. WP6
WILL THEN MEET ON OCTOBER 15 TO CONSIDER FRENCH AND

BELGIAN MEASURES TO COMBAT USE OF TAX HAVENS.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MULTINATIONAL CORPORATIONS, TAXES, COMMITTEE MEETINGS, INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 02 JUN 1975
Decapton Date: 01 JAN 1960
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975OECDP14084
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750192-0856
From: OECD PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750689/aaaaddxw.tel
Line Count: 117
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 DAF/CFA/WP6/75
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 14 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 MAY 2003 by MartinML>; APPROVED <14 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FISCAL AFFAIRS WP ON TAXATION MNE'S
TAGS: EFIN, OECD
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006